IN THE HIGH COURT OF BOMBAY AT GOA

APPEAL FROM ORDER NO. 56 OF 2004

M/s. Kayaar Industries,
a proprietorship concern which
was having address at Plot No.89,
Kindaim Industrial Estate, and
represented by their proprietor
Mrs. N. Vijayam, having address
at Flat No.9, Paul Plaza,
Ganpatiwada, Marcela, Goa. ..... Appellant.

Versus

1. EDC Limited, a Corporation
having its address at EDC House,
Dr. Atmaram Borkar Rd., Panaji,
Goa, through their Managing
Director,

2. Shri K.V. Ballikar, working
at EDC House, Dr. A.B. Road,
Panaji, Goa, and

3. M/s. Swaraj Industries, a
proprietorship concern of Shri
Rajiv K. Shirodkar, having address
at Opp. Santa Inez Church,
Panaji. ..... Respondents.

Mr. A. R. Kantak, advocate for the appellants.

Mr. C. A. Ferreira, advocate for respondent nos.1 and 2.

Mr. R. Soares, advocate for respondent no.3.

CORAM : S. S. PARKAR, J.

DATE : 24th June, 2005.

ORAL ORDER

Heard both sides. Perused the order of the trial Court. The trial Court is right in not granting temporary injunction restraining the respondents no.3/defendants no.3 from entering the factory premises inasmuch as the factory has been sold to the defendants no.3 by defendant no.1, the State financial corporation, pursuant to which defendants no.3 are in possession of the factory. As regards the other limb of the temporary injunction sought against the defendants no.3 that they should not remove any machinery, spares, raw materials or other goods from the factory premises, the same cannot be granted as first of all the plaint does not specify the items of the machinery. Secondly, there is no allegation that defendants no.3 are going to remove the machinery from those premises. Thirdly, it is the case of the defendants no.3 that they are running the factory and, therefore, there is no question of their removing the machinery. Fourthly, so far as the raw material is concerned, no order can be passed as the same has to be utilized for the purpose of production of finished products which will have to be removed from the factory if the business of the factory is to run. The impugned Order was passed on 13th July, 2004. At no point of time the trial Court had granted the ad interim injunction Order, nor any ad interim injunction order was

sought from this Court after filing of this Appeal.

2. In the circumstances, I find no flaw in the impugned order of the trial Court. In the result this Appeal From Order is dismissed.

S.S. PARKAR, J.

mc.